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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MARK WADE GANTT, 08A3883,

Plaintiff,

-v-

Correctional Sgt. PATCHIN, Correctional Officer  
Mrs. ZANWOSTOUSKI and Deputy  
Superintendent of Security JOHN C. COLVIN,

Defendants.

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**DECISION AND ORDER**  
**11-CV-6351Fe**



Plaintiff Mark Wade Gantt, an inmate proceeding *pro se*, filed this action *pro se* (Docket No. 1) and was granted permission to proceed *in forma pauperis* (Docket No. 3). Although summons and complaints were mailed by the Marshal's Service on October 3, 2011, no defendant has acknowledged service or answered the complaint. Plaintiff is now seeking injunctive relief (Docket No. 6).

As a *pro se* prisoner-litigant proceeding *in forma pauperis*, plaintiff is "entitled to rely on service by the U.S. Marshals." *Romandette v. Weetabix Co.*, 807 F.2d 309, 311 (2d Cir.1986) (citing Fed.R.Civ.P. 4(c)(2)). So long as such a prisoner provides the information necessary to identify the defendant, courts have uniformly held that the Marshals' failure to effect service automatically constitutes good cause within the meaning of Rule 4(m). See *Moore v. Jackson*, 123 F.3d 1082, 1085-86 (8th Cir.1997); *Bird v. Stone*, 94 F.3d 217, 220 (6th Cir.1996);

*Dumaguin v. Sec'y of HHS*, 28 F.3d 1218, 1221 (D.C.Cir.1994); *Puett v. Blandford*, 912 F.2d 270, 276 (9th Cir.1990); *Sellers v. United States*, 902 F.2d 598, 602 (7th Cir.1990). None of the service forms mailed to defendants by the Marshal's Service on October 4, 2011 has been returned indicating in any way that service at the addresses provided by plaintiff was not possible. Nor have acknowledgments of service been received by the Marshal's Service or the Court.

The Court hereby requests that the Attorney General of the State of New York assist the Court in ascertaining what impediments there may be in the Marshal's attempts to serve the named defendants. The Attorney General of the State of New York is requested to provide any information he can ascertain by **November 15, 2011**. The Clerk of Court shall send a copy of this Order and the complaint to Debra A. Martin, Esq., Assistant Attorney General in Charge, 144 Exchange Street, Rochester, New York 14614.

IT IS SO ORDERED.



HONORABLE RICHARD J. ARCARA  
DISTRICT COURT

Dated: Nov. 1, 2011